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COMMISSIONER

TEIS Policy Manual Memorandum #06-005

DATE: November 27, 2006

TO: TEIS Project Coordinators, TEIS Principal Investigators and
TEIS Contract Coordinators

FROM: Jamie Thomas Kilpatrick, Director
Office of Early Childhood Programs, Division of Special Education

CC: Joseph E. Fisher, Assistant Commissioner

RE: Use of Part C Funds for Payment of Services

The Tennessee Division of Special Education's Office of Early Childhood has been reviewing Part C assurances, working with OSEP. We are currently conducting an extensive review of training documents related to upcoming fiscal audits of Tennessee's use of Part C funds. Based on the evaluation of these documents and current Tennessee fiscal practices, several fiscal concerns have been noted. In an attempt to be proactive about these concerns, it is necessary to provide written clarification for policy and procedural clarification. The Tennessee Division of Special Education's Office of Early Childhood is committed to full compliance with OSEP's fiscal concerns related to our state's use of Part C funds along with full compliance with IDEA 2004.

After a review of Tennessee's current policies, this document will replace the following two letters issued by Brenda Bledsoe, former Director for Office of Early Childhood Programs:

- 1) Payment for Specialty Evaluations for Initial Eligibility Determination dated March 26, 1999;
- 2) Payment for Specialty Evaluations for Initial Eligibility Determination, dated December 21, 2000.

While the policy letters do address the issue of ensuring timely initial evaluations, this previous clarification did not address the specific payor of last resort requirements (see 20 U.S.C. 1440, et seq)

Therefore, **as of the date of receipt of this memorandum**, TEIS Point of Entry Offices can no longer provide the flexibility to expedite the determination of eligibility through the guidelines outlined in the above mentioned letters. Due to the inconsistency with Payor of last resort provisions, which only allow for temporary reimbursement pending reimbursement from the agency that has the ultimate responsibility for the payment. As of the (date of this letter) TEIS Point of Entry Offices will cease the practice of supplanting TennCare funding for all Part C required services including evaluation.

Therefore, where a child has TennCare, the key component for Point of Entry Service Coordinators' responsibilities will be to coordinate TennCare benefits to ensure receipt of

appropriate Early Intervention services by an infant, toddler, or family in a timely fashion. Therefore, from this date forward TEIS is not to be the payor source for any Part C service covered by TennCare.

The office is fully engaged with the Governor's Office of Children's Care Coordination to ensure interagency coordination of resources. The result of the TEIS fiscal analysis is expected allow for this flexibility in the future. Any Part C payments for TennCare children in the future will only be allowable when the state lead agency receives direct reimbursement from the state Medicaid agency (TennCare) that has the ultimate responsibility for the payment. (see 20 U.S.C. 1440, et seq).

Performance Measures:

The TN Department of Education, Division of Special Education is committed to working with all parties involved to an appropriate resolution of these concerns. Non compliance with this policy and practice clarification will result in potential recoupment of funds or termination of contract for cause. Department of Education procedures will be immediately be put in to place to ensure compliance with this policy and practice clarification.